

(approved January 12, 2001)

**BOARD OF BEHAVIORAL SCIENCES
FULL BOARD
MEETING MINUTES**

AUGUST 25, 2000

**HYATT REGENCY MONTEREY
ONE OLD GOLF COURSE ROAD
MONTEREY, CA**

MEMBERS PRESENT

Selma Fields, MFT Member, Board Chair
Marsena Buck, LCSW Member, Vice Chair
Christina Chen, Public Member
Virginia Laurence, LCSW Member
Karen Pines, MFT Member
Howard Stein, Public Member

MEMBERS ABSENT

STAFF PRESENT

Sherry Mehl, Executive Officer
LaVonne Powell, Legal Counsel
Julie McAuliife, Administrative Analyst

GUEST LIST ON FILE

The meeting was called to order at approximately 9:00 a.m.

Ms. Fields stated there would be no closed session.

Ms. Mehl introduced Lynn Morris, Deputy Director of Board Relations for the Department of Consumer Affairs.

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Roll was called and a quorum was established.

**2. CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 11126(C)(3) TO
DELIBERATE ON DISCIPLINARY DECISIONS**

The Board did not meet in closed session.

3. APPROVAL OF MINUTES

MARSENA BUCK MOVED, CHRISTINA CHEN SECONDED, AND THE BOARD APPROVED THE MINUTES OF MAY 19, 2000. HOWARD STEIN ABSTAINED.

4. APPROVAL OF ALL MINUTES NOT PREVIOUSLY APPROVED

MARSENA BUCK MOVED, KAREN PINES SECONDED, AND THE BOARD APPROVED THE FEBRUARY 3, 2000 EXAMINATION COMMITTEE MINUTES.

MARSENA BUCK MOVED, KAREN PINES SECONDED, AND THE BOARD APPROVED THE FEBRUARY 3, 2000 CONSUMER SERVICES / CONSUMER PROTECTION COMMITTEE MINUTES.

MARSENA BUCK MOVED, KAREN PINES SECONDED, AND THE BOARD APPROVED THE FEBRUARY 3, 2000 LEGISLATION / MANAGED CARE COMMITTEE MINUTES

MARSENA BUCK MOVED, KAREN PINES SECONDED, AND THE BOARD APPROVED THE FEBRUARY 3, 2000 LICENSING / EDUCATION COMMITTEE MINUTES.

MARSENA BUCK MOVED, KAREN PINES SECONDED, AND THE BOARD APPROVED THE FULL BOARD MINUTES OF FEBRUARY 4, 2000.

MARSENA BUCK MOVED, KAREN PINES SECONDED, AND THE BOARD APPROVED THE MARCH 10, 2000 LCSW SUPERVISION AND TRAINING COMMITTEE MINUTES.

5. CHAIRPERSON'S REPORT

Ms. Fields stated that she was so impressed with our newsletter. This newsletter has assisted in one of the Board's most important goals of communication with the public.

6. EXECUTIVE OFFICER'S REPORT

a. Budget Update

The most current budget information was included in the meeting materials. The Budget Change Proposal for an increase of examination funds was successful. Our budget was also increased to include money for our newsletter. The reduction for two renewal cycles of renewal, inactive, and delinquent fees regulation package was approved by the Office of Administrative Law and will become effective January 1, 2001. This reduction was necessary to assist in reducing our fund balance.

b. Miscellaneous Matters

The website activity was included in the meeting materials. Ms. Mehl stated that these figures have well surpassed the Board's expectations. The statistical charts included in the meeting materials identified the actual sites of our website that are used the most. New aspects of the website include a manual renewal form and the newsletter in a format for downloading. The manual renewal form now allows

people who did not receive a renewal notice to obtain the notice off of the website instead of calling the Board to request another one.

Also, the Professional Therapy Never Includes Sex booklet and our Strategic Plan were added for downloading. Our laws and regulations booklet has received almost 6,000 hits in one month. Online verifications are running about 4,000 a month. The forms and publications on the website are updated weekly. The layout of our website was changed to look more like the Governor's website as requested.

The office is running smoothly. The two separate offices are currently being joined and remodeled.

7. DISCUSSION AND POSSIBLE ACTION REGARDING INTERNET E COMMERCE

a. Public Interaction with the Board

Ms. Mehl stated that e-commerce is one of the goals of the Department of Consumer Affairs and is included in their Strategic Plan. Ms. Mehl is researching ways to become more user friendly on our website. Florida's website includes an interactive pre-evaluation process for out of state applicants which allows people to input their education and experience to determine if they would qualify for licensure in that state. This is a great tool to allow people to survey this information prior to contacting the Board. Ms. Powell clarified that there are necessary disclaimers that must be included.

Another interaction with the Board in the future will be through fax on demand. A person could call the Board, request a specific form, and that form would be faxed to them 24 hours a day.

b. Psychotherapy Over the Internet

Included in the meeting materials were several webpage printouts as well as a compilation of issues that relate to psychotherapy over the Internet. The issues included geographical location of where services are rendered and where the patient is located and the regulatory jurisdiction, verbal and non-verbal cues – mental state of the patient, confidentiality, revenue sources – referral fees and accountability, and the fact that there aren't laws that address interns or associates performing services through the Internet. Also included was a public disclaimer that is provided on the Board of Psychology homepage. The Board asked that the issues that have been identified be incorporated into a disclosure and posted on our website.

Ms. Buck asked that the professional associations and schools provide the Board with articles written on this issue in the last twelve to eighteen months.

Ms. Mehl stated that she and Mary Reimersma, Executive Director of the California Association of Marriage and Family Therapists, plan on attending the American Association of Marriage and Family Therapist Regulatory Boards national conference in Colorado in November and will ensure that these issues are discussed.

Eric Lyden, Marriage and Family Therapist and Chief Operating Officer of myTHERAPYnet.com, commented on the compilation of issues. He thought that this information was very helpful in determining the Board's concerns on this issue. He questioned if licensure is in fact required in the state where the patient resides. To the best of his knowledge, there are eight states that do not have licensure.

He questioned if other states licensing boards would agree with our conclusion. He stated that he did agree that a therapist would miss nonverbal cues when performing on-line therapy but, within many forms of therapy, especially with managed healthcare, nonverbal cues are not the emphasis of successful therapy. He indicated that audio and video conferencing will soon be the way psychotherapy is performed over the Internet.

Verification of identity of a client of Internet therapy works much like verification in a private practice. An intake form is completed and verification of the client's credit card is validated.

Mr. Lyden discussed confidentiality. He indicated that the issue of hackers has become less and less significant because of security measures that are being applied. Security measures for Internet sites include the requirement of encryption. He felt that therapy on the Internet is far more secure than in a personal office where someone could listen through a door. Another form of security is dumping the data. Also, with video conferencing, there are no written words being sent over the Internet. He did not think that the services provided by an Internet company would constitute fee splitting. The licensees are in fact paying a company to provide a service. Finally, he indicated that he thought Internet counseling was a modality, not a setting. Therefore he did not think it would be unlawful for interns and associates to perform services through this mechanism. He then stated that he thought some therapy was better than no therapy. Internet therapy is bound to have some limitations but it is in great demand.

LaVonne Powell, Legal Counsel for the Board, clarified that California law does in fact require that a person be licensed in the state where a client resides.

Mary Riemersma, Executive Director of the California Association of Marriage and Family Therapists, stated that the association would support that discussions on Internet Therapy be brought to national regulatory boards. She indicated that the insurance company that the association endorses does not cover Internet therapy. The association is in the process of gathering information and creating ethical standards to address this issue. Regarding interns providing services over the Internet, although she agreed that the Internet is not a setting, she did not think that it was appropriate for non licensed people to be providing therapy over the Internet. She indicated that if the Board chose to allow this, a small limit of hours gained through this mechanism should be clearly identified in law or regulation. If the Board chose not to allow this at all, this should also be clearly indicated in law or regulation. She stated that a lot of thought and consideration needs to be taken when making any decisions to ensure that the outcome is appropriate.

Kathleene Derrig-Palumbo, Marriage and Family Therapist and Chief Executive Director of myTHERAPYnet.com, provided information to the Board about the Internet therapy site. She indicated that new software is being developed to detect a hacker within five seconds. There is also technology for confidentiality to prevent hackers. She explained that their site had not been launched as of the day of this meeting. She explained that she wanted to make sure the site was in compliance with the laws and regulations before being launched on the Internet. The site set up is a chat room setting, the information is stored and dumped daily, and nothing is saved. The therapist keeps individual client's records.

She thought that Internet therapy allows a person to open up freely without any restrictions or limitations.

She explained that her interpretation of their site is as a virtual landlord. All licensees are contracted and license expirations and renewals are verified. If a copy of the renewed license is not submitted, the licensee cannot practice on the site. The service also provides articles written by therapists and videos that consumers can purchase. Ms. Derrig-Palumbo stated therapists could provide their clients with referrals to direct links that can offer them assistance.

Ms. Fields asked about a complaint process. Ms. Derrig-Palumbo explained that at any time a consumer can contact the site administrator and there is a complaint process in place. The administrators can shut down a therapist's site within myTHERAPYnet.com at any time for any violation.

Dr. Stein stated that he thought myTHERAPYnet.com was much more than a virtual landlord.

Ms. Derrig-Palumbo offered to provide the Board with a viewing of how the site works at a future meeting. She then explained that she has contacted six insurance companies who will cover online therapy and the site does require that all licensees have malpractice insurance.

The meeting recessed at 10:55 a.m. and reconvened at 11:05 a.m.

Peter Chechele, Marriage and Family Therapist, stated that he has been providing Internet therapy for three years and also has a private practice. He provides the Internet therapy through e-mail and real time chat. The e-mail is encoded with encryption and is only able to be read by the person it is sent to. He stated that Internet therapy is a great way to establish connections and relationships, communicate through writing, and be innovative and creative. Things that are not effective with Internet therapy include the rush to get on-line and the absence of face to face communication that some clients feel is necessary. He sometimes begins the therapy on line and continues in his office or vice versa. He referred the Board to the International Society of Therapy On Line and materials that have been written on this subject by Martha Ainsworth.

David Fox, Marriage and Family Therapist, stated that he thought one of the Boards' overall goals is to protect the integrity and the quality of psychotherapy services provided by its licensees. The idea of Internet therapy seems to threaten this goal. Issues that he had identified included accountability, crisis management, advertising, and the prohibition of using testimonials. He suggested that the Board include some kind of an advisory on the website and in the newsletter that indicates the limitations of Internet therapy.

Helen Nedelman from the University of Southern California stated that she will bring this to the attention of the social work schools and will provide the Board with any literature that the schools may have on this issue.

Foojan Zeine, Marriage and Family Therapist and representing myTHERAPYnet.com expressed her thoughts on other areas that online therapy may be helpful. These include people who are agoraphobic, people in rural and small communities who do not have access to therapists, disabled people who are unable to travel, and people of different cultural and religious backgrounds who would never risk being seen going to therapy. She has also noticed that there are people who speak another language and there is not a therapist in the area that speaks this language. Licensees are currently calling their services other names such as spiritual counseling in order to perform services on the Internet and not be in violation of

the laws and regulations that govern their license. Ms. Buck clarified that it did not matter what someone was calling their services. As a licensee, they must follow the current laws and regulations.

Ms. Zeine stated that the Internet is a good modality for therapist to therapist conversation and consultation. She often speaks with other therapists through an international chat room. She then stated that she thought Internet therapy would be beneficial to interns and would broaden their experience.

Ms. Pines asked staff to research the costs of video conferencing.

Ms. Buck asked to receive specific information about the issues of confidentiality by people who are familiar with Internet security. Ms. Powell explained that there are current regulations in place that address encryption and electronic signatures.

After discussion, Ms. Fields asked that this issue continue to be included on the Board's meeting agendas. At this point, the Board will continue to gather information through public input and written materials provided by the public, professional associations, and schools.

8. 2001 BOARD MEETING CALENDAR

A draft Board meeting calendar was included in the meeting materials. Ms. Powell informed the Board that she was not available for the first three meetings dates. After discussion, the Board decided on the following dates:

January 11-12, 2001 – San Diego

April 19-20, 2001 – Sacramento

July 26-27, 2001 – Fresno Area

November 8-9, 2001 – Los Angeles Area

All dates and locations are tentative based on location availability.

The Board then chose March 1, 2001 in San Diego for the next LCSW Subcommittee and April 11, 2001 and October 10, 2001 if needed for the MFT Subcommittee meetings.

9. APPROVE/ NOT APPROVE COMMITTEE RECOMMENDATIONS

a. Licensing / Education / Legislation Committee

MARSENA BUCK MOVED, SELMA FIELDS SECONDED, AND THE BOARD CONCURRED TO APPROVE THE COMMITTEE MINUTES. HOWARD STEIN ABSTAINED.

Ms. Pines provided the Board with an overview of the Committee meeting. She stated that Ms. Mehl explained the problems with the new law regarding the supervision ratio requirement for associate clinical social workers. Staff will begin to work on draft language and bring the draft back to the Committee in November. They then reviewed the number of active current registrants and licensees for the past ten years. The Committee discussed the issue of distance learning programs. Ms. Mehl informed them that a survey was sent to all approved and accredited schools asking if they offered a degree obtained through distance learning. The results of the survey will be presented at the next

meeting. The last issue discussed was regarding schools that offer an acceptable degree for the marriage and family therapist license. Ms. Mehl explained that the Board does not have the legislative authority to sanction a school for non-compliance of our law. The Committee decided to look into the possibility of gaining the authority to approve schools that offer qualifying marriage and family therapist degree and look at ways to take action against schools if needed. The Committee asked staff to research how other boards approve schools.

Ms. Fields stated that she and Ms. Pines would form a marriage and family therapist subcommittee to begin to look at this issue.

b. Examination Committee

MARSENA BUCK MOVED, SELMA FIELDS SECONDED, AND THE BOARD CONCURRED TO APPROVE THE COMMITTEE MINUTES. HOWARD STEIN ABSTAINED.

Ms. Buck provided an overview of the meeting. The Committee reviewed the examination statistics and then had a lengthy discussion regarding limiting the number of times to participate in an oral examination. The Committee requested that staff prepare the options that were discussed at the meeting. Ms. Mehl stated that the options included additional experience and education.

Dr. Stein stated that he thought that the problem may not lie with the candidates and that it may be the educational institutions.

Ms. Mehl stated that this would effect less than two hundred candidates. She explained that some of the candidates actually answer questions that are determined to be harmful to the public but yet the Board continues to register these people. She then indicated that the study that is being done by the graduate student as mentioned in the oral examination presentation on August 24, 2000 should include education and experience components that students are not getting that are necessary for independent practice.

Ms. Buck explained that the Board has looked at the period of time between graduation and examination in the past and amended the laws and regulations accordingly to tighten the experiential and supervisorial requirements. She indicated that this area will always be an area of exploration.

Ms. Buck then stated that the Committee tabled the issue of limiting the number of subsequent registrations issued by the Board.

c. Consumer Services / Consumer Protection Committee

Ms. Fields proved the Board with an overview of the meeting.

CHRISTINA CHEN MOVED, VIRGINIA LAURENCE SECONDED AND THE BOARD CONCURRED TO APPROVE THE COMMITTEE MINUTES. HOWARD STEIN ABSTAINED.

The Committee reviewed the enforcement statistics. They then discussed the issue of mandating continuing education in law and ethics and directed staff to draft language and determine if the amendment would work best in law or regulation.

CHRISTINA CHEN MOVED, MARSENA BUCK SECONDED, AND THE BOARD CONCURRED TO DIRECT STAFF TO DRAFT LANGUAGE TO MANDATE CONTINUING EDUCATION IN LAW AND ETHICS.

11. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

David Fox commended the Board on the usefulness of the website. He suggested that, to increase public participation at the meetings, the Board might want to send a postcard to the licensees and registrants in the area where the meeting is being held. He also suggested that a list of issues the Board is considering be included on the website. These lists would allow people to comment on them via e-mail.

The meeting adjourned at 11:55 a.m.